

**IN THE CIRCUIT COURT OF THE STATE OF OREGON  
FOR THE COUNTY OF BENTON**

STATE OF OREGON, )  
Plaintiff, ) Case No. 14CR16191  
vs. ) MEMORANDUM IN SUPPORT  
WALEED ALI ALHARTHI, ) OF MOTION TO RECONSIDER  
Defendant. ) ORDER DECLARING FORFEITURE OF  
 ) SECURITY UNDER ORS 135.280(3)  
)

The State of Oregon, by and through Deputy District Attorney Carrie Wineland, respectfully submits the following memorandum in support of the State's motion to reconsider.

ORS 135.280 includes language that the court "shall enter an order declaring the entire security amount to be forfeited" if the defendant fails to comply with conditions of his security release. The State submits that because the court uses the word "shall" the court does not have discretion to order an amount less than the "entire security amount" to be forfeited. There are several places in ORS 135.280 where the legislature discusses the "security deposit" as opposed to the "entire security amount". Therefore, if the legislature intended the law to mean anything other than that the court is required to forfeit the entire amount of security that was set by the court then they would have specifically said so in the statute. Additionally, if they had intended it to be discretionary they would have done so, as there is a specific allowance for the court to exercise discretion in modifying the judgment if the defendant later appears and addresses his failure to appear.

Additionally, the statute specifically provides direction on how the court should enter the judgment and specifies that the judgment be reduced by the "value of the deposit so forfeited", making clear that the legislature intended for the entire amount of security set to be forfeited.

If the Benton County Circuit Court has a policy of not ordering the entire security amount to be forfeited then that policy would appear to contradict the plain meaning of the statute.

Respectfully submitted on April 24, 2015 by:

  
Carrie Wineland, OSB No. 085123  
Benton County Deputy District Attorney